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 and Leanne R. Harris*

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**IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF UTAH**

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LAURA A. GADDY, individually and  
 on behalf of all others similarly  
 situated,

Plaintiff,

v.

CORPORATION OF THE PRESIDENT  
 OF THE CHURCH OF JESUS CHRIST  
 OF LATTER-DAY SAINTS, a Utah  
 corporation sole,

Defendant.

**MOTION TO AMEND [proposed]  
 SECOND AMENDED  
 COMPLAINT. Filed as Ex. 1 to  
 “MOTION for LEAVE to FILE  
 Proposed SECOND AMENDED  
 COMPLAINT”**

2:19-cv-554-RJS-DBP

Chief District Judge Robert J. Shelby

Magistrate Judge Dustin B. Pead

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**MOTION TO AMEND PROPOSED SECOND AMENDED COMPLAINT**

Plaintiffs move to amend [correct] the [Proposed] Second Amended Complaint, (2AC) filed as Exhibit One [Dkt #105-1] to “MOTION for LEAVE to FILE a Proposed SECOND AMENDED COMPLAINT [Dkt #105]. Please note that proposed corrections are largely due technical/editing issues. Highlighted parts are the proposed changes.

- ¶36 The following row was apparently omitted in the pdf conversion of the proposed 2AC filed. This row should be inserted between row 5 & 6 [excluding headings]. *In column 3 of row 6, one can read: “see above description” that refers to the omitted row re: the specifics of the Kirtland Bank scam in proposed 2AC as filed.*

February 10, 1837	Kirtland, Ohio	<p>Smith creates the Kirtland Safety Society Anti-Banking Co. after Ohio denies him a banking license. Warren Parrish, secretary for Smith and briefly, cashier of the bank wrote in 1838: <i>"I have been astonished to hear him declare that we had \$60,000 in specie in our vaults and \$600,000 at our command, when we had not to exceed \$6,000 and could not command any more."</i><sup>1</sup> Smith duped investors by showing boxes in a vault each marked \$1,000 that were actually filled with <i>"sand, lead, old iron, stone, and combustibles,"</i> but each had a top layer of fifty-cent silver coins.<sup>2</sup></p>	<p>Violation of Ohio banking license statute.</p> <p>Smith is sued civilly by dozens of investors, former Mormons, and others, who were engaged in circulating Kirtland notes.</p>	<p>A Qui Tam action is brought against Smith and his conspirators by Samuel Rounds individually and on behalf of the State of Ohio. <b>They are convicted. Smith's part of the fine is \$1,000 plus court costs.</b> Smith dies without satisfying the judgment, which is ultimately satisfied against his estate.</p> <p>Civil claims were not satisfied. Smith had escaped Kirtland on horseback along with Sidney Rigdon after a warrant was issued (See below) for his arrest. he had no assets from which to satisfy the judgments (Smith filed for bankruptcy but his petition was denied.)</p>
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<sup>1</sup> (Letter to Zion's Watchman, published March 24, 1838. Cyrus Smalling also wrote that Joseph had collected only \$6,000 in specie. See E. G. Lee, *The Mormons, or Knavery Exposed*, p. 14)

<sup>2</sup> According to several contemporaneous accounts by former members of the church.

January 12, 1838	Kirtland, Ohio	See above description.	Warrant issued for Smith's arrest on charge of banking fraud.	That night Smith and Rigdon fled the court's jurisdiction, escaping from Ohio into Missouri.
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- ¶341 should include this sentence at the end: "Additionally, the emotional trauma he experienced as a result of Defendant's fraud has been intense and ongoing."
- ¶345 should include at the end: "HARRIS' and her immediate family resigned from the LDS Church in 2020."
- ¶115, The diagram showing the "Nonprofit" side of the Mormon Corporate Empire indicates "8 Qs of Seventy." That number should read "12 Qs of Seventy."<sup>3</sup>
- ¶403 The first sentence reads: "Under Utah law, plaintiffs were in a confidential relationship that gave rise to Defendant's duty to disclose material facts to plaintiffs." The foregoing sentence should read: "Under Utah law, Plaintiffs were in a confidential relationship that gave rise to Defendant's duty to fully and fairly disclose material facts to plaintiffs."
- ¶404, First row [not including headings] last Column with re: the brown stone, under the "Evidence of Concealment" Box, the word "no" was inadvertently omitted in the first sentence. It should read: "Previously, no full or fair disclosure of it in correlated materials since Correlation created. Apostle Richards denies church has custody."
- ¶404, Third row [not including headings] second column, should be ¶176-181 instead of ¶178-181. Changed, the text under the picture of figure 6, the slave/Anubis would read: "More detailed explanation & large picture of above is in ¶279-281"

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<sup>3</sup> Four more Quorums of the Seventy were added after the Complaint was filed on Aug. 5, 2019.

- ¶426 At the end of the paragraph it reads: (See Invitation to Trust Table ¶129), However, paragraph reference for table should be: “(See Invitation to Trust Table ¶144)”
- ¶427 second to the last sentence reads in part: “...instead of a perpetrator and instigator and defendant in the criminal and civil justice system. Correction would be to add the following to that sentence: “...,as more fully described in ¶36, Table of Crimes and Civil wrongs.” So that the changed sentence would be: : “...instead of a perpetrator and instigator and defendant in the criminal and civil justice system, as more fully described in ¶36, Table of Crimes and Civil wrongs.”
- ¶430 and that only one personal appeared to Smith in his 1820 vision. Should be changed to: “...and that only one personage appeared to Smith in his 1820 vision.”
- ¶432 In the phrase that reads: “...others commercial projects it has funded developed and even manages, throughout the US and globally.” A typo should be fixed, and a comma added so that the end of the sentence would read: “...other commercial projects it has funded, developed and even manages, throughout the US and globally.
- ¶440 Incorrect paragraph reference. The sentence with “...detailed in paragraph ¶135 above,” Should be changed to: “...detailed in paragraph ¶36 above,”
- ¶448 GADDY, SMALL and HARRIS and others like her, plaintiffs herein... Change “her” to “them” so that the above sentence would read: “GADDY, SMALL and HARRIS and others like them, plaintiffs herein...” Defendant was or should have been aware that Plaintiffs and each of them.
- ¶495. Add “And/or” to the end of the paragraph. The paragraph would then read: “They promulgated a version of Smith as a victim of lawsuits and the legal system, while

concealing his criminal and civil fraud history and extensive adultery as more particularly detailed above in ¶36. And/or”

- ¶496 The last two words of that paragraph. “To in”, are extraneous and should be deleted.

- ¶501 “... the constituted an “enterprise,” Delete “the” which is an extraneous word. The phrase would then read: “... constituted an “enterprise,”

- ¶503. “1838 account” should be “1832 account.”

- ¶510. Reads: The members of the Mormon Collection Enterprise shared the common purpose(s) of (among other things) collecting tithing from Plaintiffs and remitting all of that tithing to Defendant COP without disclosing that the Book of Mormon was created,” The following phrase should be added to the sentence: “...without disclosing that the Book of Mormon was created by dictating from a stone in a hat,...”

- ¶518 The paragraph numbers referenced in the last sentence should be changed from ¶¶293-303 to ¶¶25-292.

- ¶521 The paragraph numbers refenced in the first sentence should be changed from ¶¶25-292 to ¶¶293-303.

- ¶522 Plaintiffs were further damaged due to Defendant’s concealment /lack of disclosure of important items and information documents that a reasonable person would think material in deciding whether to commit to the COJCOLDS.

The highlighted phrase in that sentence should be changed to: important items, documents and information.

- ¶530 Paragraphs ¶¶25-292 should be deleted so that the first sentence reads:

“All of the acts of racketeering described in ¶¶293-303 above, were continuous...”

- ¶540. Omitted words at beginning of sentence is “Damages for” so that sentence should read: Damages for both types of misrepresentations are of a type that a reasonable person would see as a likely result of his or her conduct, including cognitive dissonance leading to depression and other emotional distress.
- 542 omitted word: is “with”. Phrase should read: “...standards of decency and morality with which COP pretends to comply.”
- Throughout the Proposed 2AC the word “plaintiffs” should be capitalized and is meant to include both named Plaintiffs and potential class members as indicated in the 2AC at FN 6\* page 7, which reads: “The term “Plaintiffs” is used hereinafter as a short-hand designation meant to include both named plaintiffs, GADDY, SMALL and HARRIS and those persons similarly situated, i.e., members of the potential Class.”

### **MEMORANDUM OF POINTS AND AUTHORITIES**

No undue prejudice would inure to Defendant because the changes are not material in that they do not change the proposed new causes of action or parties. This proposed 2AC is a 197 page complaint, necessitated due to the almost 200 year fraudulent scheme perpetrated by the leaders of the LDS Church against their followers.

#### **1. Justice Supports Leave to File the Amendment to the Proposed 2AC**

In the absence of undue delay, bad faith or dilatory motive, repeated failure to cure deficiencies by prior amendments, undue prejudice to the opposing party by virtue of allowance of the amendment, or futility of amendment, leave should be freely given to provide plaintiffs “the maximum opportunity for each claim to be decided on its merits.”

Minter v. Prime Equip. Co., 451 F.3d 1196, 1204 (10th Cir. 2006)

2. Given Defendant's Past Response to a Similar Motion, Defendant Should not have any Issues with the Requested Corrections

Defendant did not oppose a prior motion to amend the previously filed proposed 2AC to substantively change the damages claimed in the Prayer for Damages. (See Dkt Nos. 95 and 97). In its "NOTICE OF NON-OPPOSITION TO "MOTION TO AMEND PRAYER FOR RELIEF IN [PROPOSED] SECOND AMENDED COMPLAINT," Dkt #97, Defendant stated: "

The Church does not oppose the substitute prayer for relief or the addition of the allegation in paragraph 277 to the proposed Second Amended Complaint. The Church understands Ms. Gaddy's instant motion to seek only leave to amend the *proposed* Second Amended Complaint—not that she be permitted to *file* that proposed Second Amended Complaint as amended.(Dkt. 97, pps. 1-2)

3. Conclusion.

For the foregoing reasons, Plaintiffs respectfully request that the Court allow the above itemized changes to be made to the proposed 2AC. Should the Court allow filing of the proposed 2AC, those changes would be incorporated into the 2AC that would be filed.

Respectfully,

Dated: October 5, 2021

Kay Burningham, Attorney at Law

/s/ Kay Burningham  
Kay Burningham

*Attorney for Laura A. Gaddy, Lyle D. Small  
and Leanne R. Harris*